

REMARKS

In response to the above identified Office Action, the Applicants respectfully request entry of the above amendments and request reconsideration in view of the following remarks. Applicants amend claims 1, 7, 28 and 71. Applicants do not cancel any claims or add any new claims. Accordingly, claims 1-51, 54-59 and 71-73 are pending.

I. Claims Rejected Under 35 U.S.C. § 102

A. Anticipation Rejections Based on Ohmura

Claims 1-4, 21, 22, 28, 29 and 40 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent Publication No. 2004/0130645 by Ohmura et al. (hereinafter “Ohmura”).

To establish anticipation of a claim, the Examiner must show that a cited reference teaches each element of the claim. In regard to claim 1, this claim, as amended, includes the elements “a binocular digital display assembly coupled to the housing and *rotatable about the housing* between a plurality of angular positions which can be maintained during use” (emphasis added). The Applicants do not believe that Ohmura teaches such a configuration. Rather, the mounting tools 231 of Ohmura are hingedly coupled to the apparatus 200F, which includes the eye piece windows 203a and 203b and LCD units 210a and 210b. The Examiner has equated apparatus 200F with the binocular digital display assembly. There is no housing taught by Ohmura about which the apparatus 200F could rotate. Thus, Ohmura does not teach each of the elements of claim 1. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 1 are requested.

Claims 2-4, 21 and 22 depend from independent claim 1 and incorporate the limitations thereof. Thus, for at least the reasons mentioned above in regard to claim 1, Ohmura does not

teach each of the elements of these claims. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

In regard to claim 28, this claim, as amended, includes the elements of “the grip and digital display assembly forming an angle with the grip extending downward from the digital display assembly and the digital display assembly extending across an eye of the user.”

Applicants have been unable to discern any part of Ohmura that discloses that the mounting tools 231, which the Examiner equates with the grip, extending downward, when in use, from the digital display assembly, which the Examiner equates with apparatus 200F. Rather, the mounting tools 231 remain at the same level as the apparatus when folded or extended. Thus, Ohmura does not teach each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 are requested.

Claims 29 and 40 depend from independent claim 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 28, these claims are not anticipated by Ohmura. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims based on Ohmura are requested.

B. Anticipation Rejection Based on Blazek

Claim 28 stands rejected under 35 U.S.C. § 102 as being allegedly anticipated by U.S. Patent No. 4,864,425 issued to Blazek et al. (hereinafter “Blazek”).

Similar to the discussion above in regard to Ohmura, the LCD 302 which the Examiner equates with the digital display assembly does not “extend across an eye of the user” as recited in claim 28. Rather, the LCD 302 is not visible to the user when the camera is in use. Thus, Blazek does not teach each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 based on Blazek are requested.

C. Anticipation Rejections Based on Rallison

Claims 1, 23-26, 28, 47-50 and 55-59 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 6,160,666 issued to Rallison et al., (hereinafter “Rallison”).

In regard to claim 1, the Examiner equates the grip with the strap 16 and temple pieces 14a and 14b of Rallison and equates the digital display assembly with the image generator 74. The Applicants believe that Rallison fails to teach any housing about which a binocular digital display can be said to be rotatable. Thus, Rallison fails to teach the elements of claim 1, as amended. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 1 are requested.

In regard to claims 23-26 these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 1 these claims are not anticipated by Rallison. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

In regard to claim 28, strap 16 and temple pieces 14a and 14b do not extend downward or form an angle with the image generator 74. Thus, Rallison does not teach each of the elements of this claim, as amended. Accordingly, reconsideration and withdrawal of the anticipation of claim 28 are requested.

In regards to claim 47, 48, 49 and 50 these claims depend from independent claim 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 28, these claims are not anticipated by Rallison. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

In regard to claim 55, this claim includes the elements of “the visor having a cross-dimension selected to maintain a predetermined focal distance between the first lens and an eye

of the user.” However, the lens 76 of Rallison is a “plano - convex or meniscus lens 76 for “providing a substantially flat field of focus to the user.” See col. 6, lines 3 and 4 of Rallison. Thus, this lens does not have focal point at which the eye of the user should be positioned in relation to the lens. Further, the lens 76 is not in a direct line with the eye of the user. Rather, the user views the display through a fold mirror 78. See Figures 8 and 9 of Rallison. Thus, the visor of Rallison can not be said to maintain a predetermined distance between the lens and the eye of the user as there is no direct focal relationship between the lens and the eye. Thus, the Examiner has failed to establish that Rallison teaches each of the elements of claim 55. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 55 are requested.

In regard to claim 56-59 these claims depend from independent claim 55 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 55 these claims are not anticipated by Rallison. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

D. Anticipation Rejections Based on Bronson

Claims 28, 31, 34, 35 and 41-44 stand rejected under 35 U.S.C.102 as allegedly being anticipated by U.S. Patent No. 6,384,863 issued to Bronson, et al (hereinafter “Bronson”).

In regard to claim 28, this claim includes the elements of a “grip and digital display assembly forming an angle” The Examiner has not indicated and the Applicants have been unable to discern any part of Bronson that teaches this element of claim 28. Thus, Bronson does not teach the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 are requested.

In regards to claim 31, 34, 35, and 41-44 these claims depend from independent claim 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to claim 28, these claims are not anticipated by Bronson. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

E. Anticipation Rejection Based on Harvey

Claim 54 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,597,346 issued to Harvey et al., (hereinafter "Harvey").

Claim 54 includes the elements of "a pointer interface providing an absolute mapping between a pointer button and a display assembly." The Examiner has responded to the Applicants' prior arguments that the input device of Harvey operates in the same manner as a computer mouse, which does not have an absolute mapping to the display, by stating "the examiner is of the opinion that a mouse does in certain respects provide an absolute mapping. A mouse on a screen is moved in real time with a mouse on a desktop. Such an attribute of a mouse is undisputed by those who have used one. Therefore, in the temporal domain, there exists an absolute mapping."

Applicants are somewhat befuddled by this response. The Examiner appears to be stating that the absolute mapping is one of time. It is unclear to the Applicants a mouse is mapped onto "the temporal domain." A computer does not have its own temporal universe which can be mapped onto the temporal universe of the real world. Applicants assume the Examiner is making an assertion that because a pointer moves at approximately the same time as a physical mouse moves, this teaches some sort of absolute mapping. However, a mouse in any form is an analog directional device providing an indication of relative movement. This analog input can

only be sampled at discrete time points. Thus, the movement on the screen of the mouse pointer is the approximation of the movement of the physical mouse and will have some delay in matching the directional movement and will continue moving past the time that the actual physical device stops moving in many instances. Thus, there is no absolute mapping even in some temporal sense. Further, there is no absolute relationship between the distance the mouse moves on the desktop and the distance the pointer moves.

However, this discussion is a diversion from the real issue. One of ordinary skill in the art would understand that the recited language has no relation to a “time domain” as asserted by the Examiner. Rather, what is at issue here is an absolute mapping of input device to display location. Thus, the Examiner has failed to establish that Harvey teaches each of the elements of claim 54. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 54 is requested.

F. Anticipation Rejection Based on Shibata

Claims 71-73 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 6,249,309 issued to Shibata, et al. (hereinafter “Shibata”).

Claim 71, as amended, includes the elements of a “handheld camera” and “a display integrated into the camera.” The monitor with the camera taught by Shibata clearly is not handheld. Thus, Shibata does not teach each of the elements of claim 71. Accordingly, reconsideration and withdrawal of the anticipation rejection of this claim is requested.

In regard to claims 72 and 73, these claims depend from independent claim 71 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 71, these claims are not anticipated by Shibata. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

II. Claims Rejected Under 35 U.S.C. § 103

Claims 1, 4, 7, 8, 10-15, 17 and 18 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent No. 5,581,399 issued to Abe (hereinafter "Abe") in view of Bronson.

Claim 1, as amended, includes the elements of "binocular digital display assembly coupled to the housing and rotatable about the housing between a plurality of angular positions which can be maintained during use." Bronson does not teach this configuration. Bronson does not teach a digital display assembly that is coupled to a housing and is rotatable about the housing. Abe also fails to teach these elements of claim 1. The Applicants have been unable to discern any part of Abe that discloses this element of claim 1. Thus, Abe in view of Bronson does not teach or suggest each of the elements of claim 1. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 1 are requested.

In regard to claims 4, 7, 8, 10-15, 17 and 18, these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to independent claim 1, these claims are not obvious over Abe in view of Bronson. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

The remainder of the rejections in the Office Action mailed January 27, 2006 are obviousness rejections of dependent claims where the primary references are Abe, Bronson, Ohmura and Rallison. Each of the claims, namely claims 5, 6, 9, 16, 19, 45, 20, 27, 51, 30, 32, 33, 36-39 and 46 depend from independent claims 1 and 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above, discussed in regard to the independent claims, the primary references that are relied upon by the Examiner do not teach or suggest each

of the elements of these claims. Further, additional references that the Examiner seeks to combine with the primary references do not cure the defects of the primary references that have been previously identified. The Examiner does not indicate and the Applicants have been unable to discern any part of the additional references, namely U.S. Patent No. 4,326,783 issued to Kawamura et al. or U.S. Patent Publication No. 2001/0004268 by Kubo et al that cure these defects of the primary references. Each of the combinations of these references fails to teach the elements of claims 1 and 28, as amended, and consequently fails to teach or suggest each of the elements of the dependent claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of these dependent claims are requested.

Applicants also respectfully request that the Examiner note MPEP § 706.02 which states that “[p]rior art rejections should ordinarily be confined strictly to the best available art.” The Examiner cited no fewer than nine different prior art references and made several apparently redundant rejections of claims in the present Office Action. Applicant respectfully requests the Examiner revise the rejection and limit the rejections to the best available art in compliance with MPEP §706.02.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

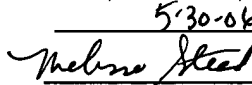
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Melissa Stead 5-30-06 Date